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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,504	12/29/2000	Wlodek W. Zadrozny	728-182(YOR9-2000-0612)	7925
28249	7590	06/24/2005	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			OPSASNICK, MICHAEL N	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/751,504	ZADROZNY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael N. Opsasnick	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 March 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-67 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-22,26-44,59-61 and 63-67 is/are rejected.

7)  Claim(s) 23-25,45-58 and 62 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### *Allowable Subject Matter*

3. Claims 23-25,45-58 and 62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter:

As per claims 45-58 and 62, the recited limitations pertaining to the structure of

the apparatus in storing, allocating, and decision making with respect to storing and accessing behavioral codes is not explicitly taught by the prior art of record.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-22,26-44,59-61,63-67 are rejected under 35 U.S.C. 102(e) as being anticipated by Hatlelid et al (6404438).

As per claims 1,28, Hatlelid et al (6404438) teaches a method for interpreting nonverbal communicative behavior of an individual (as interpreting utterances to identify behavior (col. 1 lines 55-61; col. 9 lines 55-65) comprising:

“observing....individual” as recording a behavior (col. 1 lines 58-62);  
“acquiring access....explanation” as accessing stored behavioral rules (col. 2 lines 25-39);

“assigning....behavior” as assignment to behaviors (Fig. 3b);  
“comparing....codes” as comparing observed contexts to existing stored associations between previous utterances and behaviors (col. 2 lines 64-67);

“retrieving the explanation....code” as suing the behavioral information to match the code (col. 7 lines 20-37).

As per claims 2,28, Hatlelid et al (6404438) teaches storing the observed behavior (col. 12 lines 10-18).

As per claims 3,28, Hatlelid et al (6404438) teaches storing in segments (as segmented files - fig. 4b, fig. 8).

As per claims 4,19, Hatlelid et al (6404438) teaches accessing and interpreting behavior codes (as automatic searching of behavior codes, that are based on previous information, to determine interpret the new utterance/input -- col. 3 lines 10-30).

As per claims 5,7, Hatlelid et al (6404438) teaches compressed information into frames (Fig. 8).

As per claim 6, Hatlelid et al (6404438) teaches string of audio and image frames (fig. 14a, and 14b)

As per claim 8, Hatlelid et al (6404438) teaches recognizing behavior units, assigning a unit code, and combining the two (as mapping of mood and personality into behavioral movement -- fig. 3b)

As per claims 9,17, Hatlelid et al (6404438) teaches gesture and sound units (Fig. 4a).

As per claim 10, Hatlelid et al (6404438) teaches synchronized gesture and sound units to form behavior code (fig. 5).

As per claim 11, Hatlelid et al (6404438) teaches chronological order of the behavior units (as keeping track of playback and duration ID -- fig. 14b)

As per claim 12, Hatlelid et al (6404438) teaches adding/modifying the behavior code if it surpasses a threshold (col. 26 line 64 – col. 27 line 9).

As per claim 13, Hatlelid et al (6404438) teaches storage in a database (col. 8 lines 40-50).

As per claim 14, Hatlelid et al (6404438) teaches user ID to edit the association (col. 7 liens 10-18).

As per claims 15,21, Hatlelid et al (6404438) teaches weighting the characteristics into subsets (col. 8 lines 55-65).

As per claim 16, Hatlelid et al (6404438) teaches searching, matching, and prioritizing the behavior codes (col. 8 lines 55-65).

As per claim 18, Hatlelid et al (6404438) teaches the recited claim limitations common to claim 1 as noted above in the rejection of claim 1. Furthermore, as per claim 18, Hatlelid et al (6404438) teaches noting and identifying a plurality of behaviors, generating a collection of behaviors, and noting the associated codes with the succession of behaviors (col. 25 line 55 – col. 26 line 67).

As per claim 22, Hatlelid et al (6404438) teaches generating context and images based on the certain part of the conversation (col. 26 lines 25-45).

As per claim 26, and 27, Hatlelid et al (6404438) teaches a plurality of moods and emotions for the user to transmit, along with gestures (col. 24 line 12 – col. 60).

Claims 29-44,65-67 are directed toward an apparatus which implement the method claimed in claims 1-28, and are similar in scope and content and are rejected under similar rationale.

As per claims 59-67 Hatlelid et al (6404438) teaches the system to be performed over server based systems (col. 5 lines 1-15), incorporating modules into each user's application (col. 5 lines 6-10), based on internet protocols (col. 5 lines 15-25; col. 5 lines 40-51); using more

than one remote location (col. 5 lines 54-60); sending different information based on the user (col. 9 lines 46 –65; col. 10 lines 38-49; col. 12 lines 32-65).

***Response to Arguments***

7. Applicant's arguments filed 3/7/05 have been fully considered but they are not persuasive. As per applicants general allegation that Hatlelid et al does not teach explanations associated with behavior codes, examiner disagrees and points to Fig. 3b and the recited passages to column 2 as noted above in the rejection. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

***Conclusion***

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
**or faxed to:**  
(703) 872 9314,  
(for informal or draft communications, please label "PROPOSED" or  
"DRAFT")  
Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Art Unit: 2655

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnich, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Wayne Young, can be reached at (571)272-7582. The facsimile phone number for this group is (571)272-7629.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571)272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno  
6/21/2005



Michael N. Opsasnich

Examiner

Art Unit 2655